

Remarks/Arguments:

Applicants thank the Examiner for the courtesy of the May 21, 2009 telephone interview. The substance of the interview is set forth in the comments below.

Claim Status

Claims 22-43 are currently pending. Claims 26-29, 31, 32 and 34 are withdrawn from consideration.

Rejections Under 35 U.S.C. §102 and §103

Claims 22-25, 30, 36-38 and 42 stand rejected under 35 U.S.C. §102 as anticipated by DE 197 50 977 (Karl-Heinz). Claims 33 and 35 stand rejected under 35 U.S.C. §103 as unpatentable over Karl-Heinz. Applicants request reconsideration of these rejections.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. §2131 *citing Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

"To establish a prima facie case of obviousness, ... the prior art reference (or references when combined) must teach or suggest all the claim limitations." M.P.E.P. §2143. Additionally, as set forth by the U.S. Supreme Court in *KSR Int'l Co. v. Teleflex, Inc.*, No. 04-1350 (U.S. Apr. 30, 2007), it is necessary to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the prior art elements in the manner claimed.

Independent claim 22 recites "wherein a first actuation component, defined by the brake pedal or a component articulated at the brake pedal, and a second actuation component that is connected downstream in the flux of force are configured relative to one another such that the first actuation component is freely moveable relative to the second actuation component in a direction toward the second actuation component prior to actuation of the brake pedal such that a lost travel is defined between the first and second actuation components in order to uncouple the first actuation component mechanically from the reactions of force of the motor vehicle brake system in a by-wire mode."

The Office Action states that "elements 12a and 12b [of Karl-Heinz] are not always in contact. During braking, element 22 draws 12b away from 12a to decouple the pedal from the master cylinder and provides lost motion as required by the claims" (see page 4). As explained during the interview, prior to actuation of the brake pedal of Karl-Heinz, elements 12a and 12b are abutted together, as opposed to being separated by a lost travel, as shown in the retracted position of the brake of FIG. 2. Moreover, prior to actuation of Karl-Heinz's brake pedal, element 12a is not freely movable with respect to element 12b in the direction of element 12b because elements 12a and 12b are abutted together. Separation of the elements 12a and 12b only occurs when the deviation of the second piston component is larger than the deviation of the first piston component. The Examiner acknowledge this relationship of the Karl-Heinz components 12a and 12b and indicated that the claims should be allowable over the references of record if amended to clarify that the lost travel is available prior to actuation.

For at least those reasons, it is respectfully submitted that Karl-Heinz fails to teach or suggest each limitation of independent claim 22 and that independent claim 22 is in condition for allowance. Claims 23-25, 30, 33 and 35-43 each depend from claim 22 and are therefore allowable for at least the reasons set forth above. Applicants respectfully submit that each of these dependent claims recites additional limitations not taught or suggested by the cited references. Claims 26-29, 31, 32 and 34 each depend from generic claim 22 and therefore should be reinstated and allowed.

In addition to the foregoing, regarding dependent claim 23, the Office Action states that "spring, actuator 20 and element 83 reduce clearance when pressure is lost in booster 20" (see page 3). Applicants respectfully submit that the force applied by spring 81 of Karl-Heinz increases the axial distance between elements 12a and 12b, as opposed to reducing clearance between those components. Thus, Karl-Heinz does not include "means ... provided in order to automatically reduce the lost travel after a by-wire mode at the commencement of a brake actuation executed by muscular power," as recited in claim 23.

It is respectfully submitted that each of the pending claims is in condition for allowance. Early reconsideration and allowance of each of the pending claims are respectfully requested.

Appln. No.: 10/520,683
Amendment Dated June 2, 2009
Reply to Office Action of March 3, 2009

PC10706US

If the Examiner believes an interview will advance the prosecution of this matter, the Examiner is invited to contact the undersigned to arrange the same.

Respectfully submitted,



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Dated: June 2, 2009

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